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SUMMARY RECORD OF THE 1685th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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GE.98-17023 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4; CCPR/C/63/Q/MKD/1)

1. At the invitation of the Chairperson, the delegation of the former Yugoslav Republic of Macedonia took places at the Committee table.

2. Mr. TODOROVSKI (the former Yugoslav Republic of Macedonia) said that his country was a successor State to the former Socialist Federal Republic of Yugoslavia and, as one of its constituent republics, had been a State party to the Covenant since January 1971. However, the FYR of Macedonia had adopted a different approach from that of the former SFRY to its obligations under the Covenant, attaching greater importance to individual human rights. Accordingly, it had ratified the Optional Protocol to the Covenant and was in the process of recognizing the jurisdiction of the Committee on the Elimination of Racial Discrimination to receive and consider petitions by individuals.

3. The FYR of Macedonia was committed to parliamentary democracy, defence and promotion of human rights, the rule of law and the operation of a market economy. During the period of transition, it had made fundamental changes in its political and economic system, overhauled the State institutions and adapted its legislation to bring it into line with the Constitution. The reform process, which had been launched at a time of great instability in the region and under very difficult economic circumstances, was still proceeding.

4. During the period covered by the report, the Macedonian Assembly had adopted a Litigation Procedures Act, a package of electoral laws and a Non-Governmental Organizations and Foundations Act. The Ministry of Internal Affairs had been successfully reorganized, the functioning of the police force had been regulated by modern legislation and a Regulation on the Use of Firearms in keeping with international standards had been prepared. Although judicial reforms were well advanced, the judiciary and the penitentiary system were still beset by financial and technical problems.

5. The media had developed rapidly during the previous two years, although the linguistically restricted market, especially for the print media, was an obstacle to cost efficiency.

6. The legal framework for the protection of ethnic minorities met high international standards. It was based on several decades of promotion of minority rights and, together with affirmative action, reflected a permanent strategic commitment on the part of the FYR of Macedonia. Protection of the rights of ethnic minorities was a prerequisite for peace and stability both within the country and in the region as a whole. The idea was to create a society whose members combined a sense of belonging and integration with a developed sense of individual freedom.

7. Efforts were being made to involve more women in high-level decision-making. In June 1998, the Macedonian Assembly had adopted a Declaration on the Promotion of Gender Equality in Decision-making Processes.

8. With a view to promoting awareness of human rights, international human rights treaties were widely disseminated and seminars, round tables and study visits were organized. To mark the fiftieth anniversary of the establishment of the United Nations, a collection of basic United Nations documents, including the International Bill of Human Rights, had been published in Macedonian and the languages of the ethnic minorities and, to mark the fiftieth anniversary of the Universal Declaration of Human Rights, a collection of the six fundamental United Nations human rights treaties had been published. Relevant documents of the Organization for Security and Cooperation in Europe (OSCE) had been published and a collection of Council of Europe human rights treaties was being prepared. Human rights had been included in educational curricula, from primary school upwards.

9. The belated submission of the initial report was due to technical factors related to the reform process. Despite the extremely difficult situation in the Balkans, the FYR of Macedonia had managed to ensure continued observance of human rights, a fact recognized in most reports by international monitoring bodies. The process of formulating and implementing government policy on the promotion and protection of human rights would remain fully transparent, both domestically and internationally. The FYR of Macedonia was also committed to the principle of cooperating with the international monitoring machinery.

10. Mr. CELEVSKI (the former Yugoslav Republic of Macedonia), responding to paragraph 1 of the list of issues to be taken up in connection with the consideration of the initial report (CCPR/C/63/Q/MKD/1), said that article 118 of the Constitution stipulated that international treaties ratified by the Macedonian Assembly formed part of domestic legislation and were applicable by the domestic authorities. Their provisions could be invoked by individuals before the courts. A separate chapter of the Constitution set forth human rights and freedoms systematically along the same lines as the two International Covenants on Human Rights.

11. Under article 2 of the Courts Act, courts were required to adjudicate on the basis of the Constitution, domestic legislation and ratified international treaties. International instruments were published, on ratification, in the Official Gazette.

12. Ms. JANJIC (the former Yugoslav Republic of Macedonia), replying to the questions in paragraph 2 of the list of issues, said that the Ombudsman and his deputies were appointed by the Macedonian Assembly for a period of eight years. Under the Ombudsman Act, the incumbent enjoyed immunity on the same basis as a judge and his duties were declared incompatible with other duties and professions and with membership of a political party. His function was to protect the constitutional and legal rights of citizens against violations by the public authorities and his jurisdiction included the police and the Ministry of Defence. He was barred, however, from taking action on cases that were sub judice.

13. The Ombudsman obtained information from the authorities through interviews and direct inspection of their work. In the event of a violation, he could propose a repetition of a procedure, request the Supreme Court to review an administrative act, request a temporary suspension of execution, recommend disciplinary procedures against an official, request the Public Prosecutor to initiate legal proceedings or recommend improvements in the way the public authorities performed their functions. The authorities concerned were required to take action within 30 days.

14. The Ombudsman's work was publicized through his Annual Report, press conferences and the daily newspapers.

15. Since the establishment of the Ombudsman's Office on 3 July 1997, 205 complaints had been submitted by 337 citizens. In descending order of frequency, they concerned town planning, employment, the judiciary, housing, social welfare, property rights and other areas. Decisions had been reached on 83 complaints to date.

16. Ms. GROZDANOVA (the former Yugoslav Republic of Macedonia), responding to paragraph 3 of the list of issues, said that international standards regarding gender equality formed part of the Constitution. Although a high percentage of women participated in all areas of public life, social attitudes had not kept pace. In view of the legal presumption of gender equality, there was little provision for affirmative action on the part of the authorities. Women accounted for between 40 and 45 per cent of government, administrative and judicial employees but the number of women at the higher levels of the decision-making hierarchy was decreasing. Only 2 out of 20 ministers and 4 out of 120 Members of Parliament were women.

17. Although the Labour Relations Act had outlawed all forms of gender discrimination in employment, anomalies persisted in certain branches of activity. At the national level, however, the proportion of women in employment was relatively high compared with other countries.

18. The National Committee for Implementation of the Platform for Action of the Fourth World Conference on Women, composed of representatives of governmental bodies and women's non-governmental organizations (NGOs), endeavoured to achieve parity for women in society through the establishment of appropriate machinery and institutions. The Declaration on the Promotion of Gender Equality in Decision-making Processes would offer valuable support in that area. Some 200 women's NGOs played an important role in identifying priorities and championing guaranteed constitutional rights for women.

19. In view of the country's commitment to affirmative action in the area of gender equality, the FYR of Macedonia would be pleased to act as host for the forthcoming Council of Europe ministerial conference on equality between men and women. One of the topics on the agenda was gender balance in the decision-making process as a vital prerequisite for full democracy.

20. Mrs. CVETANOVSKA (the former Yugoslav Republic of Macedonia), responding to paragraph 4 of the list of issues, said that, according to official statistics, violence against women, and domestic violence in particular, did

not exist in the FYR of Macedonia. However, information from lawyers with experience of criminal and divorce proceedings and from health professionals told a very different story.

21. The scale of the problem had been underestimated and, as in the case of other countries, it was often because the victims themselves were reluctant to come forward. Emergency "hot lines" had been receiving an increasing number of anonymous calls concerning domestic violence, a development that might be reflected in future in the official records.

22. The Humanitarian Association for Emancipation, Solidarity and Equality of Women had mounted a campaign to change attitudes to and promote awareness of domestic violence. It had conducted an unprecedented survey with a view to establishing a corresponding database. Government ministries were actively supporting such initiatives. The survey had found that 68 per cent of those polled attributed violence to social factors, particularly financial difficulties, social status, unemployment and psychological problems. Domestic violence was attributed primarily to alcohol and jealousy, but a majority of respondents thought it was caused by a combination of factors, including drug abuse and problems of social status.

23. A broadly equal proportion of males and females - 31 per cent - had experienced some form of psychological or physical violence. In the case of women, the most common perpetrators were their partners, followed by acquaintances and parents. Four per cent of respondents had required medical help after an assault. Action to counter such phenomena included counselling services, programmes to prevent bullying, and educational measures and discussions to promote awareness of gender equality. Proposals for the future included reform of legislation, promotion of equality of opportunity, action against stereotyping and provision of shelters for the female victims of domestic violence.

24. In the framework of the programme of activities of the Department for the Promotion of Gender Equality and a project sponsored by the United Nations Development Programme (UNDP), a national women's information centre was to be established. A National Action Plan was being prepared as a follow-up to the Fourth World Conference on Women and would be completed by January 1999. It would focus on the need to prevent domestic violence, particularly violence against women. Women's NGOs had played a major role in consciousness-raising and in encouraging the reporting of domestic violence by its victims.

25. Mr. STOJANOVSKI (the former Yugoslav Republic of Macedonia), responding to paragraph 5 of the list of issues said that a total of 531 missing persons had been reported in the period from 1993 to 1997. Of the 358 who had been traced, 18 had been found dead, and it had been established that three of them had died by violent means.

26. In 1996, complaints against members of the police for overstepping their authority had led to 72 disciplinary actions resulting in 16 dismissals. In 1997, 121 actions had been initiated resulting in 22 dismissals. Between the date of submission of the report and 1 June 1998, rubber truncheons had

been used by prison officers to break up fights between inmates in eight cases. Investigations by the Ministry of Justice had not established any overstepping of authority.

27. Mr. TODOROVSKI (the former Yugoslav Republic of Macedonia), responding to the questions in paragraph 6 said that, in the table contained in annex IV to the report the figures for convictions for the crimes of coercing a confession or statement or maltreatment while on the job related to official persons only. Such persons would include members of the police and security services as well as Government and court officials and members of the military. According to data obtained from the Statistical Office, none of the offences listed in the table under unlawful deprivation of freedom had been perpetrated by an official person.

28. He informed the Committee that a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had visited penal establishments in his country in May 1998 and had found no evidence of torture or of cruel, inhuman or degrading treatment of inmates. A series of seminars had been organized for police and prison officials with a view to preventing such treatment from occurring.

29. Mr. CELEVSKI (the former Yugoslav Republic of Macedonia), responding to paragraph 7, said that conditions of detention were regulated by articles 143 and 188 of the Law on Criminal Procedure. Persons arrested in flagrante delicto or persons arrested on suspicion of being perpetrators of a crime had to be handed over to an investigating judge immediately: if detention was necessary to allow time for establishing an alibi or for collecting evidence, such detention was limited to 24 hours.

30. Rooms used for detention had to meet certain safety, health and hygiene criteria, and any person detained longer than six hours had to be provided with food. All requests for legal assistance were granted. Under the 1991 Constitution, the maximum period of pre-trial detention had been set at 90 days, but under a recent amendment that period had been extended to 180 days. After the charge had been brought, detention could be prolonged only by the decision of a court, a system which ensured that the rights of persons deprived of their liberty were given maximum protection.

31. Replying to the questions raised under paragraphs 8, 9 and 10 of the list of issues, he said that the punishment of solitary confinement was imposed only on prisoners who posed a serious threat to the security of the penal establishment and the safety of other inmates. It had been introduced because under the penal system of the FYR of Macedonia, prisoners were kept not in single cells but in communal quarters. Detainees could be kept in solitary cells for a maximum of 15 days, and in solitary confinement, which was the severer punishment, for up to six months. Persons held under such conditions enjoyed the same rights as other prisoners with regard to exercise, receiving letters and newspapers, health care and educational activities. In the course of the last 10 years, the punishment of solitary confinement had been imposed only on the organizers of the 1995 revolt, which had seriously undermined discipline and caused considerable material damage.

32. Foreign nationals and stateless persons convicted under the Law on the Execution of Sanctions were held in the Idrizovo prison, which was the only closed prison in the country. However, they could be transferred to the semi-open section of the prison, and had the right to contacts with family members and with the diplomatic and consular representatives of their country. There were currently 46 foreign nationals in prison in the FYR of Macedonia, but no stateless persons had had to serve a prison sentence to date.

33. A minor could be sentenced to detention only for a serious criminal offence, when the identity of the person concerned could not be established, and when there were circumstances pointing to a risk of escape. In 1997, 2,743 prosecutions had been brought against minors for criminal offences, but only 19 had resulted in detention. In 12 cases, detention had been for 1 month, in 4 cases, for 15 days, and in 3 cases, for 3 days or less. Minors were normally separated from adults, the only exception being if it was judged that the adult concerned would have a positive influence on the minor. However, there had been no case in the past five years of minors being held in the same room as adults.

34. Mr. Bhagwati, (Vice-Chairperson), took the Chair.

35. Ms. JANJIC (the former Yugoslav Republic of Macedonia), responding to paragraph 11 of the list of issues, said that the independence of the judiciary in the FYR of Macedonia was guaranteed by the Constitution. The exercise of the office of judge was incompatible with the exercise of any other public office or profession, and a judge could not be a member of a political party. Judges enjoyed immunity in the performance of their duties.

36. Candidates for the office of judge had to be nationals of the FYR of Macedonia who had passed the bar examination and had reached an eminent position in the legal profession. Five years' experience as a working lawyer was needed for appointment as a judge of a court of first instance, 10 years' experience for appointment as a judge of a court of second instance, and more than 12 years' experience for appointment as a judge of the Supreme Court.

37. The right to a fair trial was likewise guaranteed by the Constitution, and was ensured by the use of the adversarial procedure, which gave both parties full freedom to present their arguments and to participate equally in the examination of witnesses and the submission of evidence. The court, as an independent body, reached its conclusions on the basis of that evidence. It was required by law, when handing down a sentence, to state how much of the evidence had been found proven and which elements of it had been of decisive significance in reaching the verdict.

38. A fair hearing was ensured by requiring that, at all stages of the criminal proceedings, the accused should have the same status as the prosecutor and could not be forced to make a confession or to answer leading questions. Confessions had only a very limited part to play in Macedonian criminal procedure, a fact which helped to lessen the danger of the extraction of confessions by force. The accused also had the right, at all stages of the proceedings, to call for the examination of witnesses, to submit evidence, and to request that an expert opinion be given. He also had the right to question the charge against him, to appeal against the verdict of a court of first

instance, and to appeal to the Supreme Court for extraordinary legal remedies. The fact that the Covenant had become an integral part of the country's domestic law in itself guaranteed the right of the accused to a fair trial.

39. One reason for the slowness in conducting trials and the backlog of cases was that many of the younger judges had been appointed only in 1996, and needed some time for further study and specialization. Other reasons included inadequate premises, the transfer of the competencies of higher courts to courts of first instance, the abolition of labour and commercial courts, and incomplete computerization. Recent legislative reforms, including the incorporation of international standards into domestic law, had also contributed to delays in the processing of cases.

40. Mr. YALDEN said he had been particularly pleased to see that the report contained comments on the State's actual performance in guaranteeing rights under the Covenant and showed a refreshing willingness to admit to shortcomings and to refer to the findings of NGOs on a number of issues.

41. He noted that the text of the law establishing the People's Ombudsman was in line with that of corresponding statutes in other countries and asked whether the Ombudsman had jurisdiction in regard to other issues, such as forms of discrimination other than racial discrimination. As for the private sector, he would like to know whether there was any agency other than the courts to which persons could have recourse if they believed their rights had been violated. The authorities might consider setting up a national human rights commission with a specific mandate to deal with complaints from, for instance, the disabled, ethnic minorities and women, in both the private and public sectors.

42. He would like to be given a more detailed breakdown of women's participation in the workforce, by level of position (junior, middle or senior). It would also be useful to know whether any legislation had been enacted to guarantee equal pay for work of equal value. Apart from the Department for Promotion of Equality Between the Sexes referred to in paragraph 22 of the report, was there any independent body to promote equality for women and to combat discrimination? Was there any legislation governing discrimination against homosexuals?

43. With respect to article 6 of the Covenant on the right to life, he said that there was reason to believe that excessive use of force by the police in an incident in Gostivar a year previously had led to the deaths of three people and injuries to some 200 others. Given the behaviour of the police on that occasion, he would appreciate confirmation of the statement in paragraph 44 of the report that, over a four-year period from 1993 to 1997, there had been only one case of excessive use of force by the police. He would also like to know what training was given to the police in the use of force and in respect for the human rights of citizens.

44. Ms. Chanet resumed the Chair.

45. Mr. ZAKHIA said he was glad to note that women were well represented on the delegation, and hoped that the fact reflected a policy of encouraging women to play an active role in political life.

46. On the question of legal capacity, the circumstances under which courts could declare persons dead, as listed in paragraph 350 of the report, seemed to him unduly broad and open to misinterpretation and abuse. Were any steps taken to prevent the possibility of error? Nothing was said about any procedures enabling a person declared dead to regain legal capacity. What measures were taken to ensure that the interests of disappeared persons declared dead were protected for a reasonable period? The issue was of great importance in relation to the right to life and the right to recognition as a person before the law.

47. The report stated that forced or fraudulent marriages could be annulled. Did one of the spouses concerned have the right to demand an annulment without the consent of the other, and if so, did that not constitute an infringement of the latter's rights?

48. Mr. POCAR said the initial report of the FYR of Macedonia had been submitted behind schedule, but conformed to the Committee's guidelines. He welcomed the fact that the country had acceded to the Covenant as from the date of its succession to the Socialist Federal Republic of Yugoslavia. It was likewise encouraging that the FYR of Macedonia had signed the two Optional Protocols and entered no reservations to the Covenant. The Government might also, perhaps, consider accepting the provisions on inter-State procedures in article 41 of the Covenant.

49. Concerning the legal framework for the application of the Covenant, and with specific reference to article 118 of the Constitution, he would like to know whether a law that went against the terms of an international agreement could be deemed unconstitutional and annulled by the Constitutional Court.

50. He had been informed that the Constitutional Court was engaged in reviewing existing legislation, including the Law on Courts, with a view to aligning it with the Constitution. That was a very positive development, especially in the context of the right to a fair trial. He would like to know more about procedures before the Constitutional Court, which apparently played a major role in protecting human rights. Could individuals bring cases directly before the Court, and how were cases submitted?

51. Article 54 of the Constitution, concerning states of war or emergency, spelled out the rights that could not be restricted in such situations, including the "legal determination of punishable offences and sentences". How was that provision to be interpreted? Did it extend to all the aspects of the right to a fair trial set out in articles 14 and 15 of the Covenant? Article 54 of the Constitution contained nothing, however, to parallel the requirement of conformity to the "exigencies of the situation" laid down in article 4 of the Covenant as a precondition for derogation from the obligations under the Covenant. He would like the delegation to comment on that fact.

52. Mr. KLEIN said he hoped that the current exercise would be the first in a continuous process of efforts to foster human rights in the FYR of Macedonia. Since the country had ratified both of the Optional Protocols to the Covenant, he would like to know whether there was any procedure for acting on the views adopted by the Committee in connection with the First Optional Protocol.

53. He associated himself with the questions asked by Mr. Pocar regarding the Constitutional Court and would like more information on how it operated. Experience had shown that the existence of such institutions went a long way towards guaranteeing the protection of human rights, particularly if they had competence to deal with individual complaints. When States were undergoing often difficult transitional periods, such institutions did much to ensure faith in the rule of law. It was therefore encouraging to see the important role played by the Constitutional Court in the legal system.

54. The third paragraph of article 110 of the Constitution appeared to indicate that the Constitutional Court's competence to accept individual complaints was confined to certain fundamental rights cited in that paragraph. He wondered whether that meant that individuals could not bring to the Court complaints of violations of the numerous other rights enshrined in the Covenant. If so, he would like to know how the protection of those rights was ensured by the Constitutional Court and whether, for example, the provisions of the Covenant could be invoked before it. Article 118, which described international agreements as "part of the internal legal order", would tend to imply that they could not and that they could be brought up only before the ordinary courts. He would be grateful for clarification of that point.

55. Referring to the provision in the third paragraph of article 50 of the Constitution according to which a citizen had the right to be informed on human rights and basic freedoms, he asked what mechanisms were in place for the dissemination of such information.

56. Although statistics on the prison population were provided in paragraph 220 of the report there was no indication as to whether overcrowding in the prisons was a problem, as it was in many countries. Paragraphs 172 to 180 provided information on the regulations governing the physical and material conditions of life in prison, but he would like to know whether those normative provisions applied in practice. Many countries had excellent prison legislation but experienced difficulties in putting it into effect.

57. Ms. EVATT said she would appreciate clarification of the regime applying to the rights of citizens as compared with foreigners. Paragraph 9 of the report said that the rights guaranteed by the Constitution were enjoyed by all citizens over whom the jurisdiction of the FYR of Macedonia extended "regardless of whether they were citizens". That was somewhat perplexing. Paragraph 10 indicated that the "characteristic of a citizen is relevant only in a limited number of cases", and that, too, demanded an explanation. She understood that some problems had arisen with the right to citizenship of persons of Albanian ethnic origin stemming from the requirement of 15 years' residence in the FYR of Macedonia to qualify for citizenship. It would be interesting to know how many people who had lived in the country since its foundation would be excluded from citizenship by the application of that provision. Paragraph 234 of the report gave figures for persons not issued passports because of "non-regulation citizenship status"; she wondered whether that was a phenomenon related to the 15 years' residence requirement.

58. Turning to the rights of women, she noted that paragraph 110 of the report dealt with prostitution, but she had seen no information as to whether trafficking in women was on the rise and, if so, whether programmes were being developed to deal with it.

59. Information provided by NGOs pointed to the existence of a practice whereby people were invited into police stations for "informative talks". An element, if not of physical intimidation, then at least of duress, was apparently involved, and no warrant was issued.

60. It had also been reported that ethnic Albanians, particularly leaders of the Albanian community, were periodically taken to police stations, interrogated, detained under harsh conditions and released without being charged. A number of Albanians had died in police custody, it was alleged, following such treatment. She would welcome comments on those points.

61. Finally, she wished to know whether the individuals arrested in the riots at Tetovo University in 1997 had been charged and how long they had been held in detention.

62. Mr. EL SHAFEI said he agreed with Mr. Pocar that the accession by the FYR of Macedonia to the two Optional Protocols and the fact that it had made no reservations to the Covenant were welcome developments. He congratulated the country on achieving independence in fulfilment of its right to self-determination.

63. He would like to know how long a person could be held in custody for questioning, how complaints of torture were lodged and investigated and what was the penalty for torture. Was evidence obtained through illegal interrogation admissible, and if not, what were the rules or safeguards prohibiting such admissibility? How did the Government define illegal interrogation? Were detainees examined by physicians, either before or after interrogation? How was the validity of a confession ascertained?

64. He would like to know how many detainees had died in custody and whether the deaths had been investigated. What was the extent of loss of life at the hands of law-enforcement agents? Was there a specific machinery for investigating such killings? What was the Government doing to resolve the problem of involuntary disappearances? What safeguards were available against such disappearance?

65. He requested an answer to the questions as to whether solitary confinement was possible as a form of detention, and if so, how long such confinement could last. What were the grounds for placing a detainee in solitary confinement? Under that measure, was the detainee deprived of all contact with the outside world, including family members and counsel? Was it used as a common form of pre-trial detention? Did a detainee have the right to appeal against an order for solitary confinement? Was the health of the detainee monitored by medical staff? Was the detainee's family notified of his or her state of health while in solitary confinement?

66. In conclusion, he thanked the delegation for its answers to the Committee's questions because they usefully supplemented the information in the report which had little to say about the practical difficulties encountered in the implementation of the Covenant.

67. Mr. PRADO VALLEJO said that the initial report of the FYR of Macedonia described the principles governing human rights and outlined an array of excellent legislation, but provided little information on actual practice. In most countries there was a gap between what was set out in the legislation

and what actually occurred in practice, and it was in that area that the Committee sought information. His colleague, Mr. El Shafei, had just posed a number of highly specific questions, precisely because a great deal of the information needed was not given in the report.

68. Referring to paragraph 47 of the report, he remarked that the right to compensation in the event of death caused by intention or by negligence could hardly be said to constitute legal protection of the right to life, the more so as the procedure for obtaining compensation would doubtless be a lengthy one.

69. The section of the report concerned with torture gave details of the applicable laws but did not mention any specific cases. It would be useful to know whether any investigations had been carried out and the persons responsible brought to justice and punished. Paragraph 104 of the report listed the remedies available to victims of torture but, there again, it would undoubtedly take a very long time for the victim to obtain redress, especially if he was still in detention.

70. With regard to the question of expulsion of a foreigner, paragraph 251 of the report described the procedure that had to be followed but did not explain what remedies were available to a foreigner who did not wish to be expelled. In particular, an explanation of the reference to the possibility of obtaining a pardon would be welcome. It would be useful to know what a pardon signified in that connection, who was responsible for issuing it and how the foreigner concerned could go about applying for it. The Government commission referred to in the second sentence of paragraph 253 would seem to act as both judge and party, so that impartiality in dealing with the foreigner's appeal was not guaranteed.

71. Mr. ANDO thanked the delegation of the FYR of Macedonia for its very comprehensive written report and its replies to the first part of the list of issues. Associating himself with Mr. Pocar's remark concerning the new country's accession to the Convention, he remarked that, in the case in point, the term "succession" was probably applicable.

72. With regard to the Constitutional Court (paras. 16 to 18 of the report), he asked the delegation to specify the precise scope of that Court's jurisdiction and to explain how it differed from a Supreme Court. Could ordinary citizens apply directly to the Constitutional Court or did they have first to go through the ordinary courts? Was the Constitutional Court entitled to pass judgement only on the issue of the constitutionality of laws? Paragraph 16 of the report spoke of functions of the Constitutional Court in connection with political association and activity, which would seem to suggest that the Court was the supreme political organ in both private and public matters. An explanation on that point would be appreciated. Referring to the Constitutional Court's power to annul or revoke laws, referred to in paragraph 18, he asked whether a law declared unconstitutional by the Court immediately became null and void as a result or whether the Court's decision merely meant that the law had to be amended.

73. At the end of article 8 of the Constitution there was a statement that anything not prohibited by the Constitution or by law was permitted in the FYR of Macedonia. Such a rule appeared to be rather too sweeping. There were

surely social norms or customs that were not spelled out in the Constitution or the laws but that had nevertheless to be respected. An explanation of that provision's implications would be helpful.

74. Lastly, he asked how lawyers were trained in the FYR of Macedonia, how they qualified to practise, whether there was a national organization of lawyers and how their fees were determined?

75. Mr. LALLAH, having congratulated the delegation on its country's good and comprehensive report, said that, when the authorities of the FYR of Macedonia came to prepare the second periodic report, they might perhaps bear in mind the provision in article 40, paragraph 2, of the Covenant requiring that reports should indicate the factors and difficulties, if any, affecting the implementation of the Covenant. It would, for example, be extremely interesting to learn precisely what provisions violating civil rights and freedoms guaranteed by the Constitution had been revoked by the Constitutional Court in the "numerous cases" referred to in paragraph 18 of the report.

76. After associating himself with the questions addressed to the delegation by Mr. El Shafei and the remarks by Mr. Pocar and Mr. Ando commending the spirit in which the FRY of Macedonia was approaching the obligations under the Covenant to which it had succeeded upon its accession to sovereign status, he said that the report did not go quite far enough in dealing with the basic question of the enjoyment of all human rights in accordance with article 26 of the Covenant. The implications of the use in that article of the expression "protection against discrimination on any ground such as ..." did not seem to be fully reflected in the system described in the report. By using the expression "such as", the drafters of the Covenant had deliberately left ample room for the provision to be interpreted in the widest possible way so as to ensure that all persons were treated with humanity and dignity at all times.

77. Likewise, where article 26 spoke of protection against discrimination on the ground of "political or other opinion", article 9 of the Constitution of the FYR of Macedonia used the more restrictive expression "political and religious beliefs". Noting that the Constitution had already been amended twice, he remarked that those matters might, perhaps, be given some thought when the time came to revise it for a third time.

78. Mr. BHAGWATI said that the Government of the FYR of Macedonia was to be especially congratulated on ratifying both the Optional Protocols to the Covenant. With reference to the Constitutional Court, he asked the delegation to confirm that the rights embodied in the Covenant could be enforced directly in that Court. Could ordinary citizens and human rights NGOs go directly to the Constitutional Court in order to challenge the validity of any legislation which they found to be inconsistent with the rights embodied in the Covenant? Was there any machinery to examine whether existing laws were in conformity with the Covenant? Could the Ombudsman examine the propriety of executive action that was legally valid but inconsistent with the rights set forth in the Covenant, and could he make recommendations to the Government on that score?

79. If the representation of women in the judiciary was inadequate, as would appear to be the case from paragraph 26 of the report, he wished to know what steps the Government proposed to take in that connection. Noting that the labour courts had been abolished, he asked whether the ordinary courts were

henceforth required to settle labour disputes and wondered whether they were competent to do so. With regard to the question of pre-trial detention, he asked what was the average length of time that a person could be detained before being brought to trial. What steps were being taken to provide education in human rights? Lastly, what was the situation with regard to legal aid in civil as opposed to criminal cases?

80. Mr. SCHEININ said that he shared Mr. Pocar's concern regarding the precise status of the Covenant in the FYR of Macedonia. Noting that article 8 of the Constitution spoke of the "fundamental values of the constitutional order of the Republic of Macedonia", he asked whether those values were also rights under article 50 of the Constitution.

81. Like Mr. Ando, though for a slightly different reason, he was concerned about the last sentence of article 8 of the Constitution ("Anything that is not prohibited by the Constitution or by law is permitted in the Republic of Macedonia"). That provision seemed to make no distinction between individuals and public authorities. If it applied only to individuals, there was no problem but, in the case of public authorities, the opposite presumption should surely apply and the provision should be framed so as to indicate that what was authorized by the Constitution or by law could not be prohibited by the public authorities.

82. In connection with paragraph 11 of the list of issues, he noted that article 14 of the Constitution was apparently modelled on article 15 of the Covenant, while the first paragraph of article 13 of the Constitution was similar to article 14, paragraph 2, of the Covenant. However, the provisions of article 12 of the Constitution seemed very limited in comparison to article 14 of the Covenant; in particular, they failed to cover paragraph 3, subparagraphs (d) and (g), of that article. According to the International Helsinki Federation, there had been cases in which judges had denied the right to call defence witnesses to defendants who were members of political parties. He wished to know, therefore, whether the provisions of article 14, paragraph 3, subparagraph (e), of the Covenant were applied in the Macedonian courts.

83. In connection with the last part of paragraph 12 of the list of issues, he mentioned an incident in June 1996 reported by the International Helsinki Federation when 226 human rights documents emanating from international organizations, including the United Nations, had been confiscated at the Macedonian border from members of the Albanian Helsinki Committee. In December 1996, 255 religious books had, reportedly, been confiscated at the border from a Macedonian citizen who was a Jehovah's Witness. He requested further clarification of the procedure and criteria employed for the denial of access to foreign publications.

The meeting rose at 1 p.m.